

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s)	Reeves et al.	Examiner:	A.K. Woldemariam
Serial No.:	10/688,267	Group Art Unit:	2624
Confirmation No.:	3785	Docket:	955-41
Filed:	October 17, 2003	Dated:	January 25, 2008
For:	SYSTEM, METHOD AND APPARATUS FOR SMALL PULMONARY NODULE COMPUTER AIDED DIAGNOSIS FROM COMPUTER TOMOGRAPHY SCANS		

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

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Joyce Peterson
(Printed Name)

Signature: /Joyce Peterson/

RESPONSE TO OFFICE ACTION

Sir:

Applicants have carefully considered the Office Action dated January 4, 2008, a reply to which is due by February 4, 2008, and provide the following response thereto.

In the Office Action, the Examiner issued a Restriction Requirement indicating that there are ten (10) separate and distinct species. Independent Claims 1, 10, 19, 28, 52, and 76 were deemed to be generic.

Applicants hereby elect with traverse the invention shown in Figures 38 and respectfully submit that Claims 1, 10, 19, 28, 52, 76, and the claims depending therefrom are generic and/or directed to the elected species.

Pursuant to 37 C.F.R. 1.143, Applicants respectfully traverse the restriction requirement between the species defined by Figures 31-38 and submit that these species should be examined in the subject application.

Various features of the invention shown in Figures 31-38 have been found to constitute six (6) separate and distinct species. However, Figures 31-38 illustrate an example of segmentation adjustment on a registered vascularized nodule. The thresholded nodule at two different times is shown in Figures 31 and 32, and the segmented nodules are shown in Figures 33 and 34. In the first segmentation, part of the top attached vessel has been missegmented as part of the nodule, and in the second segmentation, part of the bottom attached vessel has been missegmented as part of the second nodule. The regions of each segmentation are marked in Figures 35 and 36 as (A) nodule in time 1, (B) nodule atrophy, (C) nodule missegmentation in time 1, (D) nodule in time 2, (E) nodule growth, or (F) nodule missegmentation in time 2. The segmentations of both nodules are adjusted in Figures 37 and 38 by removing the missegmented regions (C) and (F). The volumes of the nodules in the adjusted segmentations are more accurate than the volumes in the original segmentations due to the removal of the vessel attachments, which leads to a more accurate determination of doubling time or percent volume change, as disclosed at page 38, line 28 through page 39, line 12 of the specification. Accordingly, Applicants submit that the species defined by Figures 31-38 are not mutually exclusive, and thus do not constitute separate species. MPEP §806.04(f) (Claims to be restricted to different species must be mutually exclusive).

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Accordingly, Applicants respectfully submit that the invention defined by Figures 31-38 should be examined in this application. Applicants note that they do not traverse on grounds that the species are not patentably distinct and make no concession as to the separate patentability of the claims at issue.

As a result of this election, Applicants respectfully request that examination of the application proceed. If the Examiner has any questions regarding this matter, please contact Applicants' attorney at the number set forth below.

Respectfully submitted,

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